7 FAM 180
REFUGE - TEMPORARY EMERGENCY PROTECTION OF PRIVATE U.S. NATIONALS AT OVERSEAS POSTS

(CT:CON-407; 06-29-2012)
(Office of Origin: CA/OCS/L)

7 FAM 181 SUMMARY

7 FAM 181.1 Scope of Guidance

(CT:CON-101; 02-10-2005)

This section clarifies the assistance that Foreign Service posts may provide to private U.S. citizens/nationals who seek temporary emergency protection ("temporary refuge") at overseas posts. Posts must notify and consult with the appropriate offices in the Department immediately when a U.S. citizen/national requests temporary refuge, detailing the reasons for the citizen/national's request and advising about relevant local conditions. The Department generally will approve such requests only when the U.S. citizen/national would otherwise be in danger of serious harm. A U.S. citizen/national granted temporary refuge may remain within the post facilities only until appropriate arrangements to secure the citizen/national's safety are in place. Constant communication and close coordination between Foreign Service posts and the Department is critically important in such cases to ensure post security, the safety of private U.S. citizens/nationals, respect for the laws of the host country, and the protection of other U.S. government interests. CA/OCS/ACS is the lead office in CA/OCS on temporary refuge issues. After regular working hours, contact the CA/OCS duty officer and CA/OCS duty director through the U.S. Department of State Operations Center.

7 FAM 181.2 Guidance Limited to Individual Refuge Requests

(CT:CON-240; 02-04-2008)

This guidance applies to those circumstances in which U.S. citizens/nationals

seek temporary refuge for emergency protection from a harm the fear of which is specific to the person seeking refuge and to her or his individual circumstances. These instructions do not/not supplant the guidance and procedures set forth in 12 FAH-1 Annex K (relating to the emergency evacuation of large numbers of U.S. citizens/nationals and other persons for whom the U.S. Government may have a responsibility), 12 FAH-1 Annex L (relating to safe haven when large numbers of U.S. citizens/nationals are expected to arrive at a post as a result of a nearby crisis), or other related guidance, unless and except as expressly indicated.

7 FAM 182 RECEIVING A REQUEST FOR REFUGE: SECURITY, SAFETY, PRIVACY

7 FAM 182.1 First Steps

(CT:CON-101; 02-10-2005)

When a person claiming to be a U.S. citizen/national requests an embassy's or consulate's protection, the official to whom the request is communicated should take the following steps immediately:

(1) First, contact the regional security officer (RSO) or marine security guard for assistance and notify the consular section chief that a request for temporary refuge has been received;

(2) Second, the regional security officer (RSO) or marine security guard should ensure that the person requesting temporary refuge does not pose a risk to the safety or security of the post, its personnel, or others. The RSO or marine security guard and the consular officer who makes initial contact with the person requesting temporary refuge should obtain initial confirmation of the requesting person's U.S. citizenship, to the extent practicable under the circumstances; and

(3) Next, the consular section chief, or American Citizens Services (ACS) chief, and at least one security officer should escort the person requesting temporary refuge to a meeting room or other place suitable for a private conversation. If the person's U.S. citizenship is not definitively confirmed, the post should select a place to which foreign nationals would otherwise normally have access. The Foreign Service post should attempt to put the person seeking temporary refuge at ease, assuring him/her that he/she is physically safe, and emphasizing that the presence of security personnel and the use of a private meeting room are intended to

ensure their safety and to provide for their privacy.

7 FAM 182.2 Opportunity for Execution of Privacy Act Waiver

(CT:CON-149; 10-05-2006)

a. Before proceeding with the interview described below, the consular officer should ask the U.S. citizen/national whether he or she would like to sign a Privacy Act waiver. See 7 FAM 060 and the Privacy Act of 1974, 5 U.S.C. 552a (Public Law 93-579), as amended. In all cases the waiver form must contain or be attached to a Privacy Act Notice that explains:

   (1) The authority authorizing the Department to solicit the requested information, and whether disclosure of such information is mandatory or voluntary;

   (2) The principal purpose(s) for which the information is intended to be used;

   (3) The routine uses that may be made of the information; and

   (4) The effects on the individual of not providing all or any part of the requested information.

b. Explain that the Department will create a Privacy Act protected file in connection with the U.S. citizen/national's request for temporary refuge, and that the information will be used only for official purposes and in accordance with prescribed "routine uses," unless otherwise authorized by the U.S. citizen/national through his or her signature on the waiver form. Explain that he or she may limit the scope of the waiver so that it covers only certain people or categories of people or extends to only certain purposes. Finally, explain that a waiver, depending on its scope, can help facilitate the Department's communication with family members and others potentially able to help the citizen/national.

c. Post personnel should take care not to pressure (or appear to pressure) the U.S. citizen/national for a Privacy Act waiver signature. Rather, inform the U.S. citizen of his or her Privacy Act rights and the effect of a waiver, allowing the citizen/national to elect or decline to sign the waiver form.

7 FAM 182.3 Conducting Initial Interview

(CT:CON-149; 10-05-2006)

a. A consular officer should conduct an initial interview of the person requesting temporary refuge with an emphasis on gathering information needed to verify the person's U.S. citizenship/nationality, to identify the citizen/national reliably, and to evaluate the nature and severity of the danger he or she fears. It is largely on the basis of this information that Department will make a determination about the U.S. citizen/national's eligibility for temporary refuge and need for other consular services.

b. Citizenship and identity must be satisfactorily established in accordance with 7 FAM 1300. At a minimum, the consular officer should ask the U.S. citizen/national to provide the following information:

(1) Name(s);

(2) Date(s) and Place(s) of Birth;

(3) Passport number(s), (photocopy the passport, if available);

(4) Marital status;

(5) Name(s), identifying details as available;

(6) Location of family in the United States, the host country, and elsewhere;

(7) Circumstances surrounding the U.S. citizen/national's presence in the host country - e.g., tourist, permanent resident, business, married to/living with host country national, child of host country national, etc.;

(8) Person or people from whom serious harm is feared;

(9) Why serious harm is feared;

(10) Any current injury as a result of violence from the person/people from whom serious harm is feared;

(11) Any other current injury (regardless of cause) or illness;

(12) Any physical harm suffered in the past from the person or people now creating fear along with corresponding details;

(13) Any physical harm threatened from those people in the past and corresponding details;

(14) Any steps taken to date to secure protection of host country authorities;

(15) Any help sought from non-governmental sources - family, friends, NGOs, religious organizations, etc., and with what result;

(16) Any disputes related to the feared harm currently being adjudicated by any judicial or other host country authority;

(17) Whether the individual is [or the persons from whom harm is feared are] subject to any arrest warrants or other judicial / law enforcement orders in the host country, in the United States, or in a third country (whether or not related to the reasons for which temporary refuge is sought);

(19) Involvement in any other ongoing legal proceedings (whether or not related to the reasons for which temporary refuge is sought);

(20) If family is present in host country, are they aware that the citizen/national has sought or was intending to seek temporary refuge;

(21) Are local or host government officials aware that the citizen/national has sought or was intending to seek temporary refuge? If so, identify those officials to the extent possible;

(22) What does the citizen/national want, e.g., to stay in the post facilities for a short period until the particular danger passes, until some reliable protection is available from host government authorities, and/or to return to the United States; and

(23) If the citizen/national wishes to return to the United States, is he or she aware of any general or particular restrictions on his or her travel out of the host country under host country law?

c. At the conclusion of the interview, the consular officer should explain to the U.S. citizen/national that the post must report to the Department and seek instructions regarding the U.S. citizen/national's request for temporary refuge. In the meantime, the U.S. citizen/national will be permitted to remain on embassy/consulate grounds or may leave freely if he or she wishes.

d. Unless the U.S. citizen/national or his/her presence within embassy/consulate facilities appears to pose an unacceptable safety or security risk, the post should not compel a U.S. citizen/national who requests temporary refuge and communicates a belief that he or she is in danger of serious harm to leave the embassy/consulate grounds without first seeking instructions from the Department and post management, in accordance with the procedures described herein.

e. If practicable, the post should make available to the U.S. citizen/national a comfortable room for the short period during which the post and the Department will confer about the citizen/national's request for temporary refuge. Consistent with these instructions, the post should take steps necessary to meet the citizen/national's immediate needs for food and medical attention.

7 FAM 183 REPORT TO AND CONFER WITH THE DEPARTMENT

(CT:CON-101; 02-10-2005)

a. The post should report telephonically to CA/OCS/ACS, L/CA, and the relevant regional bureau immediately and follow up in writing as soon as possible after the initial report. After normal working hours, contact the CA/OCS duty officer, the CA/OCS duty director, and the L and regional bureau duty officers through the U.S. Department of State Operations Center.

b. Provide all information gathered from the U.S. citizen/national during the initial interview, along with any relevant observations about the person's appearance, demeanor, apparent emotional and psychological condition, and the overall impression he or she created. Copies of any relevant documents, photographs, or other material received from the U.S. citizen/national should accompany the report. In its report to the Department, the post should also communicate its own judgment about:

(1) Whether the U.S. citizen/national is in fact threatened with serious harm;

(2) The likelihood that host country resources (whether governmental or non-governmental) are available that could provide the U.S. citizen/national with reliable protection from his or her particular articulated fear of serious harm;

(3) The anticipated reaction of the host country government if the U.S. citizen/national is granted temporary refuge and is permitted to remain at the post; and

(4) If the U.S. citizen/national wants to leave the host country, the practical ability of the U.S. citizen/national to travel under the circumstances, the post's ability to assist the U.S. citizen/national to leave the host country, and any applicable host country legal requirements or restrictions.

c. If the U.S. citizen/national signed a Privacy Act waiver, the post should fax a copy of the form to CA/OCS/ACS. If not, note in the report to the Department that the U.S. citizen/national declined to sign and describe the reasons he or she gave, if any, for declining signature. A person is not required to explain a decision not to sign a Privacy Act waiver.

7 FAM 184 DEPARTMENT INSTRUCTION TO GRANT/DENY TEMPORARY REFUGE AND TERMINATION OF REFUGE

(CT:CON-149; 10-05-2006)

a. On the basis of the information provided by the U.S. citizen/national and the post, the appropriate Department offices (to include CA/OCS/ACS, L, and the relevant regional bureau) will consult, involving Department principals as appropriate, to ensure a Department decision concerning whether the circumstances warrant affording temporary refuge to the U.S. citizen/national. CA/OCS/ACS will have the lead. The Assistant Secretary for Consular Affairs will clear the decision. Chief among the Department's considerations in this respect will be whether the requesting person will otherwise be in danger of serious harm. Department's evaluation of the request will take into account the presence or absence of alternative resources for assistance and protection, applicable host country laws, and the prevailing local conditions in which the requesting person's claimed fear of harm arises.

b. The Department will not approve requests for temporary refuge if the requesting U.S. citizen/national would not be in danger of serious harm or if host-country resources exist that are able reliably to protect the person from harm. Except in the narrowest of circumstances, the Department also will not grant requests for temporary refuge apparently intended to prevent or avoid the execution of the laws of a host country, even when the application of those laws may appear adverse to the interests of the U.S. citizen/national.

c. CA/OCS/ACS will respond to the post with a cable approving or denying the request for temporary refuge and providing additional instructions. Such a cable will follow interim instructions, if any, issued orally or by other means.

7 FAM 185 CONTACTING / INFORMING THE

HOST GOVERNMENT

(CT:CON-149; 10-05-2006)

The Department will coordinate with the ambassador or his/her designee regarding communication with the host government, at the ambassador's discretion. In any communication with host government representatives, all Department personnel must adhere strictly to the Privacy Act. If the U.S. citizen/national has signed a Privacy Act waiver form, Department personnel must respect any limitations indicated on the form concerning the release of protected information. (See 7 FAM 060).

7 FAM 186 ACCOMMODATIONS

(CT:CON-101; 02-10-2005)

When a U.S. citizen/national must remain on embassy or consulate grounds overnight, the post should make available to the citizen/national appropriate space in whatever facilities are available. Unless there is no practicable alternative, post personnel should not house persons granted temporary refuge in their personal quarters. Except with the express approval of the Department, no Department employee may allow a U.S. citizen/national who has been granted temporary refuge to enter or remain in any employee's home that is not located on the grounds of a consulate or embassy.

7 FAM 187 FIRST AID, PHYSICAL EXAMS AND EXPENSES

(CT:CON-407; 06-29-2012)

a. If the U.S. citizen/national states that he or she is injured or ill, embassy/consulate personnel may provide emergency first aid as directed by the chief of mission. The post should describe the nature and extent of the injury or illness, with as much detail as possible through simple observation and by speaking with the U.S. citizen/national, in the initial report to the Department.

b. Embassy/consulate personnel should not/not conduct physical examinations related to allegations by the U.S. citizen/national of physical abuse (including sexual abuse), unless instructed to do so in explicit guidance from the Department.

c. Food and basic toiletries should be provided to a U.S. citizen/national

seeking refuge upon request, using EMDA funds. The U.S. citizen should not/not be asked to sign a promissory note, Form, DS-3072 Emergency Loan Application and Evacuation Documentation, for the purchase of these items. Purchases must fall within the usual guidelines for use of EMDA funds. Posts will be reimbursed for these initial expenses. The post should submit a memo itemizing such expenses as they would in any EMDA loan case, working closely with CA/OCS/ACS case officers. The post should retain corresponding receipts to the extent possible.

d. The post should handle expenses incurred after a U.S. citizen/national is granted temporary refuge, including repatriation costs, in accordance with 7 FAM 300, Emergency Financial and Medical Assistance for U.S. Citizens Abroad.

e. In appropriate circumstances, *CA/OCS/L* will help to determine whether and to what extent funds may be available to assist the U.S. citizen/national from U.S. state or federal crime victim compensation programs, from the National Center for Missing and Exploited Children, or through the U.S. Department of Justice OJJDP grant program.

7 FAM 188 COMMUNICATION WITH FAMILY MEMBERS AND THE MEDIA

(CT:CON-101; 02-10-2005)

a. Subject to the U.S. citizen/national's designations on his or her signed Privacy Act waiver form, CA/OCS/ACS will work closely with the post to coordinate contact and communication with family members. The responsible consular officer normally will take the lead in interaction with the U.S. citizen/national's family members.

b. The Department will coordinate all communication with host country or other media. Under no circumstances should post personnel discuss with the media any aspect of a U.S. citizen/national's request for or receipt of temporary refuge, except as indicated in explicit guidance from or cleared by the Department.

c. In any communication with media, all Department personnel must adhere strictly to the Privacy Act. If the U.S. citizen/national has signed a Privacy Act waiver form, Department personnel must respect any limitations indicated on the form concerning the release of protected information.

7 FAM 189 TERMINATING REFUGE

(CT:CON-101; 02-10-2005)

Foreign Service posts may afford U.S. citizens/nationals temporary refuge only until appropriate arrangements for their safety are in place. Department and the post will confer throughout to determine if and when circumstances warrant termination of temporary refuge by the Department, which determination the Department will communicate in corresponding explicit instructions.